IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 3157 of 2005

Between:

1 Nellore Sreenivasulu, S/o.Atchaiah,
R/o.Kalavakonda Village, Chillakur Mandal, Nellore District.
2 Nellore Suresh, S/o.Atchaiah,
R/o.Kalavakonda Village, Chillakur Mandal, Nellore District.

..... PETITIONERS

AND

1 The Superintendent of Police, Nellore.
2 The Deputy Superintendent of Police, Gudur Nellore District.
3 The Station House Officer, Chillakur police Station, Chillakur,

Nellore District.
4 Sri.Buduru Ramanaiah, S/o.Audaiah, r/o.Kalavakonda Village,
Chillakur Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of writ of Mandamus, to direct the respondents 1 to 3 to provide police help in preventing 4th respondent in interfering with the maintaining the petitioner's fencing shown in the plaint plan AB-BC in O.S.No.399/2001, in the court of Junior Civil judge, Gudur, in respect of the petitioner's Lemon Garden in Sy.No.64/1 Ac.1-05 cents, Kalavakonda village, Chillakur Mandal, Nellore District, and pass such other order or orders in the interest of justice.

Counsel for the Petitioner: MR.P.KRISHNA REDDY

Counsel for the Respondent No.: GP FOR HOME

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home. Though notice is served on the 4th respondent, no appearance is filed and there is no representation on his behalf.

The petitioners submit that they have purchased Ac.1.05 cents of land in Sy.No.64/1 and Ac.0.16 cents of land in Sy.No.57/1A in Kalavakonda village, Chillakur Mandal, Nellore District, under registered sale deed dated 7.9.1993 and in respect of the land in Ac.1.05 cents they have raised lemon garden. For the purpose of safeguarding lemon garden, the petitioners raised fence with various plants used for fencing. While so, the 4th respondent encroached upon a portion of land towards North and West of the petitioners' lemon garden. Originally in the year 1977, one acre of land including the land encroached by the 4th respondent was assigned in favour of one U.Madhusudhan Rao. As the said Madhusudhan Rao could not cultivate the land, the 4th respondent encroached upon 20 cents of land out of the assigned land and put up thatched shed and residing there. The 4th respondent tried to tamper with the fence by destroying some trees. Therefore, the petitioners have filed O.S.No.399 of 2001 on the file of the file of Junior Civil Judge, Gudur along with I.A.No.788 of 2001 for interim injunction and I.A.No.789 of 2001 for

appointment of Advocate Commissioner for submitting report. Orders were issued in both the applications. The Advocate Commissioner after giving notices to the petitioners and the 4th respondent visited the place and submitted his report along with rough sketch on 6.2.2002. Basing on the report of the Advocate Commissioner, the suit was decreed ex parte on 2.7.2003. In spite of passing of decree in favour of the petitioners, the 4th respondent is trying to interfere in maintaining the fence made by the petitioners. Therefore, the petitioners filed a representation on 15.11.2003 before the 2nd respondent who has endorsed on the same and directed the 3rd respondent to enquire and report. But so far no steps have been taken by respondents 1 to 3 to provide any assistance for implementing the decree of the civil court. Hence the petitioners filed this writ petition seeking direction to respondents 1 to 3 to provide police help in preventing the 4th respondent in interfering with the maintaining of fence shown in the plaint plan in O.S.No.399 of 2001.

The learned counsel for the petitioners submits that in similar circumstances this Court by order dated 11.3.2005 in W.P.No.858 of 2005 following the judgment of the Apex Court in *Calcutta Gas Company (Prop) Ltd., v. State of West Bengal* disposed of the writ petition directing the police to extend necessary help to the petitioners to protect their possession over the land.

Following the same and having regard to the facts and circumstances of the case, respondents 1 to 3 are directed to extend necessary help to the petitioners to protect their possession over the land in survey numbers referred to above unless they are dispossessed through any proceedings in accordance with law by an appropriate court or statutory authority.

The writ petition is, accordingly, disposed of. No order as to costs.

(V.ESWARAIAH, J.)

21.4.2005

Note: Issue copy within one week.

B.o.

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To

1 The Superintendent of Police, Nellore.
2 The Deputy Superintendent of Police, Gudur Nellore District.
3 The Station House Officer, Chillakur police Station, Chillakur,

Nellore District.

4 2 copies to the Govt. Pleader for Home, High Court buildings,

Hyderabad (O.U.T)

5 2 C.D copies